

Driver Licensing And Identification Card Issuance

ACTION/ISSUE STATEMENT

Short Description:

Mail-in or Fax of Legal Presence Documents in Limited Circumstances

Decision Issue:

When out of state and unable to return to Virginia for reasons beyond their control, will applicants be permitted to submit copies of proof of legal presence documents by mail or fax?

(For purposes of this recommendation, replacement licenses (ie duplicates) and revoked licenses are not addressed. If a customer requests a replacement license, the license on record would still be valid. Therefore, this law would not require them to submit proof of legal presence. If a customer's license is revoked, they are required to make application for a new license in the same manner as they would an original license. They would therefore, be required to visit a DMV Customer Service Center (CSC) in order to obtain a Virginia driver's license and would not be eligible to mail or fax their documents.)

Impact and Challenges:

Virginia drivers who are temporarily outside of the Commonwealth and need to renew their expired driver's license or reinstate their Virginia driving privilege due to a suspension or cancellation of their driver's license will be impacted by this decision. The primary challenge presented by this issue is how to accommodate applicants who have been provided special consideration by Virginia law in other areas.

HB1954/SB1058 requires Virginia drivers whose licenses have expired or been cancelled, suspended, or revoked to provide proof of legal presence prior to reinstating their driving privilege.

However, Virginia law already acknowledges through its Virginia residency/address exceptions that there are bonafide instances in which a Virginia driver is outside of the Commonwealth for an extended period of time and is authorized to keep their Virginia driver's license. Some reasons identified by law are:

--Active member of the U.S. Armed Forces (includes spouse and dependents)

--U.S. citizen employed outside the U.S. (includes spouse and dependents)

--Bona fide resident of Virginia temporarily located outside of Virginia because the resident is (i) Enrolled as a

student; (ii) Employed outside of Virginia; or (iii) Outside of the state for family reasons.

In these cases, customers are currently permitted to submit proof of their address exception using copies mailed or faxed in.

Customers who meet the requirements for an address exception and who wish to reinstate their Virginia driving privilege after a suspension or cancellation, or seek to renew their license after it has expired, would be required to provide proof of legal presence. These applicants would find it extremely difficult and possibly very expensive to make an in-person appearance at a CSC. Unless DMV accepts mailed or faxed documents as proof, these applicants would be required to travel, sometimes very long distances, in order to reinstate their driving privilege.

If DMV permits these applicants to mail in or fax copies of legal presence documentation:

---It will be imperative that the DMV staff are well versed regarding which circumstances permit an applicant to submit copies and which do not.

---Any communication that is distributed to customers in this situation would need to be updated to reflect the requirement and the fact that copies could be accepted.

DMV will establish a protocol and procedures for verifying the documents that are faxed or mailed into DMV as evidence of legal presence in these cases, and will take care to ensure that the protocol and procedures are fair, equitable and cost effective.

If DMV does not permit these applicants to mail in or fax copies of legal presence documentation:

---This could cause a negative media event if it becomes public knowledge that customers are, in very special circumstances, permitted to submit proof of identity via mail and fax but are not permitted to submit proof of legal presence documents in the same way. As a result, it will be argued that, due to the legal presence requirement, some bona fide Virginia residents who are temporarily outside of the Commonwealth will not be able to renew their license or reinstate their driving privilege without actually visiting Virginia and making application in person.

There is no way to accurately determine the fiscal impact of permitting applicants who are out of state and seeking to renew expired driver's licenses or to reinstate cancelled or suspended driver's licenses to mail in proof of legal presence documents. It is possible that permitting mail in or faxed documents may, at some point, require additional staff at headquarters.

DMV Recommended Decision:

Customers needing to prove legal presence and who can prove a bona fide reason for being outside of the Commonwealth should be permitted to submit copies of their proof of legal presence documents through the mail or by fax, when applying to renew an expired driver's license or to reinstate a suspended or cancelled driver's license.

DMV will establish a protocol and procedures for verifying the documents that are faxed or mailed into DMV as evidence of legal presence in these cases, and will take care to ensure that the protocol and procedures are fair, equitable and cost effective.

DMV Commissioner's Signature

Date

Panel Recommended Decision:

The panel REJECTED the DMV recommended decision. Panel members questioned the issue of possible fraud, and raised the possibility of not allowing fax or photocopies of any legal presence documents. The issue of parity was raised - why allow some to have this exemption. Staff explained that the exemption is specified and required in the Va. Code and would require a change to disallow. After further discussion, the panel voted on the question of accepting the recommendation to allow fax or photocopies of legal presence documents (as amended), or requiring these documents to be presented in person. The panel voted to reject the recommendation with one abstention.

Panel's Signature

Date

Secretary's Recommended Decision:

Secretary's Signature

Date

Governor's Recommended Decision:

Governor's Signature

Date